

Rights And Obligations Of The Clearing Member/Participant And Its Client In Relation To The Securities Lending And Borrowing Scheme

1. The Securities and Exchange Board of India ("SEBI") has formulated and issued the Securities Lending Scheme, 1997 ("SEBI Scheme") and SEBI Circular No MRD/DoP/SE/Dep/Cir-14/2007 dated 20th December 2007 for facilitating lending and borrowing of securities through an "Approved Intermediary" registered with SEBI.
 2. The National Securities Clearing Corporation is an Approved Intermediary ("AI") registered under the SEBI Scheme and is, therefore, authorised to facilitate lending and borrowing of securities in accordance with the SEBI Scheme and Circulars of SEBI issued from time to time. Accordingly, the AI has framed the Securities Lending and Borrowing Scheme (hereinafter referred to as "SLBS") for facilitating lending and borrowing of securities through persons registered as "Participants".
 3. SEBI, thereafter, vide its Circular No. CIR/NRD/DP/19/2014 dated June 3, 2014 ("SEBI Circular") has modified the framework of Securities Lending and Borrowing. Under the said SEBI Circular, AI shall enter into an agreement with its Clearing Member/Participant ("Agreement") for the purpose of facilitating Securities Lending and Borrowing and which shall specify the rights, responsibilities and obligations of the AI and the Clearing Member/Participant ("Participant"). The said Agreement shall also define the exact role of AI/Participant vis-à-vis the Client of Participant. As per the said SEBI Circular, AI is also required to frame rights and obligations document laying down the rights and obligations of the Participant and its Client for the purpose of Securities Lending and Borrowing. The said rights and obligations document shall be mandatory and binding on the Participant. Accordingly, the AI has framed this rights and obligations document laying down the rights and obligations of Participant as well as of its Client ("Rights & Obligations Document").
 4. Securities Lending and Borrowing can be undertaken by the Participant either on their own account or on account of its Client registered with them. Any person(s) who meets the eligibility criteria as may be specified by the AI for the Clients under the SLBS, shall be eligible to participate in the SLBS by submitting duly signed relevant documentation/s to the Participant that it is desirous of participating in the SLBS. The Participant on the receipt of said relevant documentation/s from its Client, shall provide this Rights & Obligations Document to its Client which will be duly acknowledged by the Client of having read, understood and to agreeing to abide by the same prior to the execution of trade in the SLBS. The terms and conditions of this Rights & Obligations Document shall be binding on the Participant as well as on its Client.
 5. All the transactions under the SLBS by the Client shall be strictly in accordance with SEBI Scheme, Circulars of SEBI, SLBS and the Circulars issued thereunder and the Rules, Byelaws, Regulations of the AI as a Clearing Corporation as applicable and the terms and conditions of the said Agreement. In the event of any conflict or contradiction between the provisions of the SEBI Scheme, Circulars of SEBI, SLBS and the Circulars issued thereunder and the Rules, Byelaws, Regulations of the AI as a Clearing Corporation as applicable and the terms and conditions of the said Agreement and this Rights & Obligations Document, the provisions of the SEBI Scheme, Circulars of SEBI, SLBS and the Circulars issued thereunder, the Rules, Byelaws and Regulations of the AI as a Clearing Corporation and the terms and conditions of the said Agreement shall prevail over this Rights & Obligations Document. The provisions of this Rights & Obligations Document are in addition thereto and not in derogation thereof.
 6. The Participant has made the Client aware of and the Client has understood the precise nature of the Participant's liability towards the Client under SLBS including any limitations on the liability and the capacity in which the Participant acts.
 7. Subject to the SEBI Scheme, Circulars of SEBI, SLBS and Circulars issued thereunder, and/or the Rules, Byelaws, Regulations of the AI as a Clearing Corporation as applicable and as in force from time to time, the rights and obligations of the Participant as well as its Client shall be hereto as under.
 8. Unless the context otherwise requires, the words and expressions used herein shall have the same meaning as defined in Securities Contracts (Regulation) Act, 1956 or Securities and Exchange Board of India Act, 1992 or Securities Lending Scheme, 1997 or Depositories Act, 1996 or the rules and regulations made thereunder respectively or Circulars of SEBI or SLBS and the Circulars issued thereunder and the Rules, Byelaws and Regulations of the AI as a Clearing Corporation.
- ### RIGHTS OF THE PARTICIPANT
9. In consideration of the Participant providing full-fledged securities lending and borrowing under the SLBS, the Participant shall be entitled for charges, fees, other levies and /or any such other charges, subject to such limits as may be permitted by the AI in its Circulars from time to time.
 10. Margins
The Participant is empowered to call upon its Client

to pay such margins as may be specified by the AI from time to time.

11. Recovery

The Participant shall be entitled to recover from the Client the loss or charges, fees, other levies and /or any such other charges that has been paid by the Participant to the AI or imposed by the AI on account of its Client arising out of default or transactions under the SLBS whether current or past that are effected by the Client in meeting its obligations by adjusting margins and other deposits, if any, available with the Participant against the Client's liabilities / obligations.

OBLIGATIONS OF THE PARTICIPANT

12. The Participant has satisfied itself about the genuineness and financial soundness of the Client and the objectives relevant to the services to be provided and is therefore, agreeable to facilitating such participation subject to the terms and conditions contained herein.

13. Issue of Confirmation Memo

The Participant shall, upon execution of the Client's transaction on the order matching platform of the AI, issue the confirmation memo in the specified format or such other documents to the Client within such time as may be prescribed by the AI from time to time.

14. Money / Securities to be kept in separate account

The Participant agrees that the money / securities deposited by the Client shall be kept in a separate bank account / settlement demat account, distinct from its own account or accounts of any other Clients, and shall not be used by the Participant for itself or for any other Clients or for any purpose other than the purposes mentioned in the SEBI Scheme, Circulars of SEBI, SLBS and Circulars issued thereunder and/or the Rules, Byelaws, Regulations of the AI as a Clearing Corporation and as in force from time to time.

15. Update on Settlement Process

The Participant agrees to inform and keep the Client apprised about securities lending and borrowing settlement cycles, delivery/payment schedules and any changes therein from time to time.

16. Compliance with Know Your Client Norms

The Participant undertakes to maintain the "Know Your Client" details of the Client as mentioned in the Client Registration Form or any other information pertaining to the Client in confidence and that it shall not disclose the same to any person / authority except to the AI or as required under any law / regulatory requirements or in compliance with any decree, order or direction of any Court, Tribunal, SEBI or other authority duly empowered in law; Provided however

that the Participant may so disclose information about its Client to any person or authority with the express permission of the Client.

17. Reconciliation of Account

The Participant and the Client shall agree to reconcile their accounts regularly with reference to the transactions under the SLBS.

18. Return of Securities and Lending Fees

Where the Client is a lender unless otherwise agreed upon between the Participant and the Client -

a) The Participant shall ensure the return of securities to the Client by transferring the same to the Client's account within such time as may be prescribed by the AI.

b) The Participant shall ensure the return of the lending fees to the Client within such time as may be prescribed by the AI.

19. Delivery of Securities

Where Client is a borrower unless otherwise agreed upon between the Participant and the Client -

The Participant shall ensure the delivery of securities to the Client by transferring the same to the Client's account within such time as may be prescribed by the AI.

RIGHTS OF THE CLIENT

20. Where the Client is the lender unless otherwise agreed upon between the Participant and the Client -

a) The Client shall be entitled to receive the securities lent or financial compensation in lieu thereof, computed in such manner as may be specified by the AI from time to time.

b) The Client shall be entitled to receive lender's fee for the securities lent.

21. Where the Client is the borrower unless otherwise agreed upon between the Participant and the Client -

a) The Client shall be entitled to receive securities borrowed or financial compensation in lieu thereof, computed in such manner as may be specified by the AI from time to time.

b) The Client shall be entitled to receive from the Participant, the collateral in case the Client has deposited securities approved by the AI as collateral.

22. Notwithstanding any other provisions of the said Agreement and this Rights & Obligations Document, the Client shall be entitled to have all the rights that are conferred on it from time to time under the SEBI Scheme, Circulars of SEBI, SLBS and the Circulars issued thereunder.

OBLIGATION OF THE CLIENT

23. Abide by Law & Acquaintance to Law

The Participant declares that it has brought the contents of the SEBI Scheme, Circulars of SEBI, SLBS and the Circulars issued thereunder from time to time, and the terms and conditions of the said Agreement

- to the notice of the Client and the Client agrees to comply with and adhere to the same.
24. **Update & Comply with the Settlement Process**
Notwithstanding anything contained in Clause 15 hereto, the Client shall at all times make its own inquiries and keep itself updated on all settlement cycles, delivery/payment schedules and changes therein, and it shall be the responsibility of the Client to comply with such schedules/procedures of the AI.
 25. **Processing Charges**
The Client agrees to pay the Participant, processing charges and statutory levies prevailing from time to time or any other charges for the services provided by the Participant. The Participant agrees that it shall not charge processing charges / fees beyond the maximum limit permissible under the SEBI Scheme, Circulars of SEBI, SLBS and the Circulars issued thereunder from time to time.
 26. **Change in Client Registration Form**
The Client agrees to immediately notify the Participant in writing whenever there is any change of information in the details provided by the Client to the Participant at the time of its registration with the Participant and also as provided in the said relevant documentation/s required for participating in SLBS.
 27. **Authorised Representative**
The Client agrees to be bound by the instructions issued by its authorised representative, if any, in accordance with the letter authorising the said representative to deal on its behalf.
 28. **Return of Securities**
The Client shall return the equivalent number of securities of the same type and class borrowed by it within the time specified by the AI in the Circulars issued from time to time.
 29. **Payment of Margins**
The Client agrees to pay such margins as may be specified by the Participant in accordance with the requirement of AI or SEBI from time to time.
 30. **Exposure / Position Limits**
The Client agrees to abide by the exposure / position limits, if any, set by the Participant or the AI or SEBI from time to time.
 31. **Securities lent to be Unencumbered**
The Client agrees and warrants that the securities lent are free from lien, charge, pledge or any encumbrance(s) of whatsoever nature.
 32. **Collateral** At the discretion of the Participant, where the Client deposits the required collateral with the Participant, the same shall be free from any encumbrance(s) of whatsoever nature or defect in the title. If any encumbrance(s) or defect in the title is found subsequently, such collateral shall be immediately replaced by the Client.

33. **Insolvency**
The Client agrees to immediately furnish information to the Participant in writing, if any winding up petition or insolvency petition has been filed or any winding up or insolvency order or decree or award is passed against it or if any litigation which may have material adverse bearing on its net worth has been filed against it.
34. **Cancellation of Transactions**
Notwithstanding anything contained in the said Agreement, the AI shall be entitled to cancel transactions under the SLBS, either on an application by a Participant or suo moto or under regulatory directions, and in such event, the transactions done on behalf of the Client shall ipso facto stand cancelled, and neither the AI nor the Participant shall be liable to compensate the Client for any loss whatsoever (including opportunity loss) arising out of such cancellation.
35. **Discontinuation of SLBS and Participation in SLBS**
The AI shall be entitled to discontinue the SLBS or the participation of the Participant in the SLBS at any time at its discretion. Such discontinuation may be subject to such terms and conditions as may be specified by the AI from time to time.

ARBITRATION

36. The Participant and the Client shall co-operate with each other and / or the AI in redressing their grievances in respect of transactions under the SLBS.
37. All disputes and differences or questions arising out of or in relation to this agreement including obligations, failure or breach thereof by any of the parties and/or of any matter whatsoever arising out of this agreement shall in the first instance be resolved mutually by the parties. If the parties fail to resolve the same mutually, then the same shall be referred to and decided by arbitration in accordance with the procedures as prescribed by the AI under the SLBS and the Circulars issued thereunder.

GOVERNING LAW AND JURISDICTION

38. In relation to any legal action or proceedings to which the AI is a party, the Participant as well as the Client irrevocably submit to the exclusive jurisdiction of the courts of Mumbai, India and waive any objection to such proceedings on grounds of venue or on the grounds that the proceedings have been brought in an inconvenient forum.
39. In relation to any legal action or proceedings to which AI is not a party, the parties irrevocably submit to the jurisdiction of any competent court of law where the Client ordinarily resides at the time of execution of the transactions under the SLBS.